

Application No. 10/027,829  
Amendment dated December 1, 2004  
Reply to Final Office Action dated October 14, 2004

Remarks/Arguments

This paper is being filed in response to the Final Official Action of the Examiner mailed October 14, 2004, setting a three-month shortened statutory period for response ending January 14, 2004. Claims 1-32 remain pending. Reconsideration, examination and allowance of all pending claims are respectfully requested.

On pages 2-4 of the Office Action, the Examiner appears to simply repeat the rejections made in the Office Action dated April 22, 2004. On page 5 of the Office Action, the Examiner states that Applicant's arguments filed on 7/22/04 have been fully considered but are not persuasive.

In response to Applicant's argument that Kaneko and Robbins are non-analogous art, the Examiner states that it has been held that a prior art reference must either be in the field of Applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. The Examiner states that, in this case, Klasky relates to online tracking of financial and goods delivery-related information (Emphasis Added); Kaneko relates to online monitoring of goods delivery-related information; and Robbins relates to online tracking of goods-delivery information. The Examiner further states that Klasky would benefit from Kaneko by providing the ability to arrange shipment of goods ordered in the most cost-effective way by planning the adequate transportation means matching the size and weight of a particular delivery lot. The Examiner further states that Klasky in view of Kaneko would benefit from Robbins by allowing

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to retrace the delivery route in case the package of the goods ordered is lost, thereby increasing the reliability of the system.

After careful review, Applicant must respectfully disagree. The Examiner is attempting to characterize the “particular problem with which the applicant was concerned” as merely modifying an alleged delivery of goods step disclosed by Klasky. However, Applicant would like to point out that Klasky does not relate to online tracking of financial and goods delivery related information, as the Examiner suggests. Rather, Klasky relates to a process of soliciting online donations through the use of online matching donations. Klasky does not appear to disclose what a charity or the like would do with the donations once received, i.e. the distribution of the collected donations to recipients. As acknowledged by the Examiner, Klasky does not teach assigning the donations to a delivery lot, or providing the location of the delivery lot at one or more points of time. *If the Examiner disagrees with this, Applicant respectfully request that the Examiner specifically point out where in Klasky there is any discussion related to online tracking of financial and goods delivery related information, as suggested by the Examiner.*

As noted in Applicant’s previous response, the “particular problem” with which Applicant was concerned relates to a “method and system of increasing the participation of contributors to a charity or other non-profit” (see the Title of Applicant’s Specification). This may be accomplished by, for example: receiving either directly or indirectly a donation from a contributor; assigning the donation to a delivery lot of cash, goods and/or services; obtaining the location of the delivery lot at one or more points in time; and providing the location of the

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delivery lot to the contributor (see, claim 1). In one illustrative embodiment of the present invention, the participation of contributors is increased by allowing the contributors to track their donations, or goods and/or services assigned to their donations, to an ultimate destination (see, for example, Applicant's specification, page 2, lines 12-14). This may help the contributor to better understand the impact that his or her donations has on the beneficiaries of the charity or other non-profit.

While Klasky appears to relate to the problem of increasing donations to a charity of the like (i.e. though on-line matching donations), Klasky does not disclose, suggest or contemplate the steps of: assigning the donation to a delivery lot of cash, goods and/or services; obtaining the location of the delivery lot at one or more points in time; and providing the location of the delivery lot to the contributor, as recited in claim 1.

In contrast, Kaneko appears to relate to a supply chain management system for a factory or the like. More specifically, Kaneko appears to relate to a technique of calculating an order amount in a process of producing products to be utilized in subsequent processes by using parts delivered from preceding processes, such that the parts to be delivered from the preceding processes are neither excessive nor insufficient (see, for example, Kaneko et al., column 1, lines 7-12). Robbins appears to relate to a package delivery tracking system for use by shippers and recipients.

In discussing non-analogous art, the court has stated:

In resolving the question of obviousness under 35 U.S.C. § 103, we presume full knowledge by the inventor of all the prior art in the field of his

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endeavor. However, with regard to prior art outside the field of his endeavor, we only presume knowledge from those arts reasonably pertinent to the particular problem with which the inventor was involved. The rationale behind this rule precluding rejections based on combination of teachings from references from non-analogous arts is the realization that an inventor could not possibly be aware of every teaching in every art. Thus, we attempt to more closely approximate the reality of the circumstances surrounding the making of an invention by only presuming knowledge by the inventor of prior art in the field of his endeavor and in analogous arts.

The determination that a reference is from a nonanalogous art is therefore two-fold. First, we decide if the reference is within the field of the inventor's endeavor. If it is not, we proceed to determine whether the reference is reasonably pertinent to the particular problem with which the inventor was involved.

*In re Wood*, 202 USPQ 171, 174 (C.C.P.A. 1979) (Emphasis Added). In addition, the court has stated that:

A reference is reasonably pertinent if . . . it is one which, because of the matter with which it deals, logically would have commended itself to the inventor's attention in considering his problem. . . . If a reference disclosure has the same purpose as the claimed invention, the reference relates to the same problem, . . . [i]f it is directed to a different purpose, the inventor would accordingly have had less motivation or occasion to consider it.

*In re Clay*, 23 USPQ 2d 1058, 1060-61 (Fed. Cir. 1992). In the present case, neither Kaneko nor Robbins appear to be within the field of Applicant's endeavor, e.g. increasing donations to an organization. Likewise, neither Kaneko or Robbins appear to be reasonably pertinent to the particular problem with which the Applicant was involved, that is, the problem of increasing the participation of contributors that provide donations to an organization. As such, both Kaneko and Robbins would appear to be clearly non-analogous art. ***If the Examiner disagrees with this, Applicant respectfully requests that the Examiner specifically point out how Kaneko and***

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***Robbins relate in any way to the problem of "increasing the participation of contributors that provide donations to an organization".***

Also on page 5 of the Office Action, and in response to Applicant's argument that the prior art does not teach *providing the location of the delivery lot to the contributor*, the Examiner states that Robbins was applied to show tracking by the contributor (Shipper) the delivery of the package via the Internet at one or more points in time, which obviously indicates *providing the location of the delivery lot*. After careful view, the Examiner appears to be miss-reading the claim language. Claim 1, for example, recites:

1. (Original) A method for increasing the participation of contributors that provide donations to an organization, the method comprising the steps of:

receiving either directly or indirectly a donation from a contributor;  
assigning the donation to a delivery lot of cash, goods and/or services;  
obtaining the location of the delivery lot at one or more points in time; and  
providing the location of the delivery lot to the contributor.

If anything, the shipper in Klasky would be the charitable organization that receives the donations, and not the contributors. Thus, even under the Examiner's interpretation, the prior art does not teach or suggest the step of *providing the location of the delivery lot to the contributor*, as recited in claim 1. Since none of the art cited by the Examiner discloses the step of providing the location of the delivery lot to the contributor, the Examiner's rejection must fail (see MPEP § 2143 "Basic Requirements of a *Prima Facie* Case of Obviousness").

Finally, the Examiner is reminded that in determining the differences between the prior art and the claims, the question under 35 U.S.C. § 103 is not whether the differences themselves

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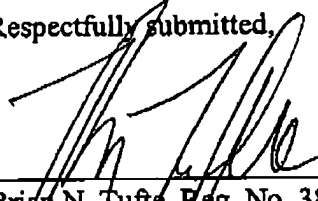
would have been obvious, but whether the claimed invention as a whole would have been obvious. It is unclear why someone would be motivated to combine Kaneko and Robbins with Klasky. As noted above, Klasky only relates to a process of soliciting online donations through the use of matching donations, and does not appear to relate in anyway to what a charity or the like does with the donations, i.e. the distribution of the collected donations. As such, there would appear to be little motivation to modify Klasky to include the "Method of and System for Order Calculation" of Kaneko, as this functionality is not contemplated or even needed by Klasky. Nor would this functionality appear to advance the goal of Klasky, which is to provide a method for increasing donations through online matching donations. The only motivation would appear to come from Applicant's own specification, which is clearly prohibited.

For the foregoing reasons, as well as other reasons including those reasons set forth in Applicant's response dated July 22, 2004, which is incorporated herein by reference, claim 1 is believed to be clearly patentable over Klasky, Kaneko and Robbins. For similar and other reasons, claims 2-32 are also believed to be clearly patentable over Klasky, Kaneko and Robbins.

In view of the foregoing, Applicant believes that all pending claims 1-32 are in condition for allowance. Reexamination and reconsideration are respectfully requested. If the Examiner believes it would be beneficial to discuss the application or its examination in any way, please call the Applicant at (612) 359-9348.

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Respectfully submitted,



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